IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE MR. JUSTICE C.V. RAMULU

WRIT PETITION No. 14293 OF 2006

DATED: 23-11-2006

BETWEEN:

Nalisetty Sridhar

.....Petitioner

AND

The Senior Manager, Engineering and Purchase
(LPG South Zone) Hindustan Petroleum Corporation
Limited, 4th floor, Thalamuthu Natgarajan Building,
No.8, Gandhi Irwin Road, Egmore, Chennai and two others

.....Respondents

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THE HON'BLE MR. JUSTICE C.V. RAMULU

WRIT PETITION No. 14293 OF 2006

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the 1st respondent in accepting the tender of the 2nd respondent in pursuance of tender notification No.PUF/2005/003/LPG-009.SBN dated 28-11-2005 as arbitrary and illegal.

It appears that the Hindustan Petroleum Corporation Limited has published tender notification dated 28-11-2005 calling for tenders for LPG cylinder bottling assistance from private bottling plants in Nellore District. The tenders were called for from two types of companies, which reads as under:

> "(1) is owning a Bottling Plant in operating condition. (OR)
>
> (2) is having suitable land and willing to construct at his cost and operate the Bottling Plant for LPG cylinder bottling for HPCL.
>
> The offered Plant should have required licenses from CCOE/PESO for bottling & allied operations and confirming to the Statutory & Regulatory requirements including those relating to Safety & Environment. In case of land being offered, tenderer should have necessary basic approvals viz. NOC from local authority, CCOE/PESO, proof of financial capability to construct a plant within 90-180 days."

It appears that the petitioner falls under the first category i.e., he is owning a bottling plant in operating condition whereas the 2nd respondent falls under the second category i.e., having suitable land and willing to construct at its cost and operate the bottling plant. The 2nd respondent's bid was accepted. It seems that the only objection of the petitioner is that while submitting the tender, the 2nd respondent has not satisfied the criteria of submitting No Objection Certificate (NOC) from the local authority for establishment of the unit. Therefore, acceptance of the tender filed by the 2nd respondent and

allotting the work to him is arbitrary and illegal.

The unit set up by the 2nd respondent is located in a panchayat area and not of Nellore Town. The 1st respondent filed a detailed counter stating that only basic clearances were required to qualify in the credential bid in line with the tender terms and conditions. The tenderer who is offering the land has to submit all statutory approvals at the time of commencing of plant, at which stage all the legal requirements in connection with the land are to be fulfilled. In the present case, the selected tenderer had submitted clearance from the gram panchayat and it was found sufficient for clearing the technical bid. Further, the Secretary of the gram panchayat certified that the panchayat has no objection for the commission of the plant at the land registered in favour of the 2nd respondent under sale deed bearing document No.2771 of 2005. Therefore, the 1st respondent has fully satisfied regarding the basic requirements for allotting the work to the 2nd respondent.

The 2nd respondent also filed a separate counter stating that the work has already been entrusted to it and it had already invested an amount of Rs.25,00,000/- on different counts apart from the fact that it has satisfied the basic criteria for allotment of work in its favour.

In view of the above, I am of the opinion that the 1st respondent was satisfied with the basic criteria that the 2nd respondent owns land. May be, as pointed out by the learned counsel for the petitioner, the land held by the 2nd respondent is an assigned land. But it is not for this Court to go into that aspect of the matter or for the 1st respondent to look into this aspect at the initial stage. The 2nd respondent satisfied the condition of owning land and produced registered sale deed vide document No.2771 of 2005. Further, the gram panchayat also gave clearance and stated that they have no objection for commissioning of the unit.

Learned counsel for the petitioner raised yet another point by

arguing that the 2nd respondent has not obtained no objection from the Country and Town Planning Authority, and the same has been dispensed with insofar as the 2nd respondent is concerned, which is nothing but discrimination.

As the plant proposed is located out side the Nellore Town, the question of obtaining any permission from the Country and Town Planning Authority does not arise. The 1st respondent was himself satisfied with the certificate issued by the Gram Panchayat.

In view of the above, I am of the opinion that the respondents have not violated any of the mandatory conditions of the tender notification requiring interference of this Court. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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(C.V. RAMULU, J)

Dated: 23-11-2006
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